

## SPECIAL USE PERMIT

<b>FILE NO.</b>	<b>SP17-017</b>
<b>LOCATION OF PROPERTY</b>	<b>Southeast corner of West Julian Street and Montgomery Street (546 W. Julian Street; APN: 259-29-097)</b>
<b>ZONING DISTRICT</b>	<b>HI Heavy Industrial and LI Light Industrial</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Transit Employment Center</b>
<b>PROPOSED USE</b>	<b>Special Use Permit to allow the expansion of a legal non-conforming use to increase the number of beds at an emergency residential shelter from 72 beds to 80 beds on a 0.4 gross acre site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exempt per CEQA Guidelines Section 15301(e) for Existing Facilities.</b>
<b>APPLICANT/ADDRESS</b>	<b>LifeMoves 181 Constitution Drive Menlo Park, CA 94025</b>
<b>OWNER/ADDRESS</b>	<b>LifeMoves 181 Constitution Drive Menlo Park, CA 94025</b>

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as following for this proposed project:

- 1. Site Description and Surrounding Uses.** The project site is located on the southeast corner of West Julian Street and Montgomery Street, across the Montgomery Street parking lot of the SAP Center. Adjacent to the site is a vacant commercial building along North 2<sup>nd</sup> Street and a surface parking lot to the rear of the building. There is a commercial building and multi-family residences to the north, a parking lot to the south, a restaurant and multi-family residences to the east, and multi-family residences to the west.  
  
The project site is surrounded by properties zoned IP Industrial Park, HI Heavy Industrial, TEC Transit Employment Center to the north, HI Heavy Industrial to the south and west, and LI Light Industrial to the east.
- 2. Project Description.** This is a Special Use Permit to allow the expansion of a legal non-conforming use to increase the number of beds at an emergency residential shelter from 72 beds to 80 beds.
- 3. General Plan Conformance.** The site's Envision San Jose 2040 General Plan Land Use / Transportation Diagram designation is Transit Employment Center. This designation is applied to areas planned for intensive job growth because of their importance as employment districts to the City as well as their high degree of access to transit and other facilities and services. Uses allowed in the Industrial Park designation are appropriate in the TEC

designation, as are supportive commercial uses. This designation also permits development with retail and service commercial uses as well as large scale hotel rooms. Although the existing use is not specifically a high-employment use, or an office use that would be found in either the TEC or Industrial Park designations, the use is particularly well served by the proximity to transit and the high density of commercial and public services. As the project is a supportive commercial use, the continued operation of the emergency residential shelter is in conformance with the General Plan designation. The project is by definition commercial in nature as it a commercial operation engaged in providing mental health support services and temporary onsite housing facilities.

The project is also promotes the following policies of the General Plan:

- a. Housing Goal H-1 Social Equity and Diversity: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.
- b. Housing Goal H-2 Affordable Housing: Increase, preserve and improve San José's affordable housing stock.
- c. Housing-Social Equity and Diversity Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.

*Analysis: This proposed project provides a population-specific care facility, serving individuals who are homeless and in need of affordable housing options which also provide rehabilitation and support services. This project will provide temporary supportive housing for underserved homeless individuals. The project site is ideally located within the Transit Employment Center General Plan land use designation with easy and convenient access to bus and rail transit services in San Jose and the region in general.*

- d. Housing- High Quality Housing and Great Places Policy H-3.3: Situate housing in an environment that promotes the health, safety, and well-being of the occupants and is close to services and amenities.

*Analysis: The facility is ideally located in the Transit Employment Area of the downtown with close and convenient access to mass transit bus stops and regional transit facilities.*

- e. Housing- High Quality Housing and Great Places Policy H-3.5: Prioritize housing resources to assist those groups most in need, or to those geographic locations in the City that most require investment in order to improve neighborhood blight conditions.

*Analysis: This project would assist homeless individuals with rehabilitation and support services. The project would provide housing, housing assistance, and needs support for each client. The ultimate goal of the program is to reduce the number of homeless individuals and improve their living environment.*

4. **Zoning Ordinance Compliance.** The Project is consistent with the regulations of the Zoning Ordinance in the following manner:

- a. **Use.** The subject project is a legal non-conforming use, as an emergency residential shelter with more than 50 beds is not an allowed use within the HI Heavy Industrial zoning district. However, Section 20.150.040.A of the San Jose Municipal Code states

that whenever an existing use subject to a previously issued valid Conditional Use Permit becomes a legal nonconforming use, it remains subject to all of the provisions and requirements of Conditional Use Permit provisions. As the project was granted a Conditional Use Permit in 2006 for the operation of an emergency residential shelter with 72 beds, the use is considered a legal non-conforming use, and the expansion of which is allowed with a Special Use Permit.

- b. **Setback and Height Requirement.** The project does not propose any site improvements or exterior modifications to the building. The existing building currently does not meet the development standards of the HI Heavy Industrial or the LI Light Industrial zoning districts, however no change is proposed to the building footprint.
- c. **Parking Requirement.** Pursuant to Table 20-190 (Parking Spaces Required by Land use) contained in Section 20.90.050 of the San Jose Municipal Code (SJMC), the parking requirement for an emergency residential shelter is one parking space per four beds and one parking space per 250 square feet of area which is used for office purposes. Based on 80 beds and 1,151 square feet of office, the parking requirement for the project is 25 off-street parking spaces. Pursuant to Section 20.90.220(G)(2) of the SJMC, up to a one hundred percent reduction in the required off-street parking for emergency residential shelters may be approved with a development permit.

On-street parking is available in the immediate vicinity on Julian, Montgomery and Autumn Streets. The project site is also eligible for participation in the Residential Parking Permit Program in the neighborhood and the project currently has 10 residential parking passes.

In addition to the on-street parking, there is close access to mass transit. The emergency shelter is located within 2,000 feet of an existing bus stop, specifically, the 22, 68 and 17 route bus stop located on West Santa Clara Street between Delmas Avenue and Highway 87. Similarly, Diridon Station with regional rail and bus access to the broader bay area is relatively conveniently located across Santa Clara Street to the south from the neighboring SAP Center. Therefore, the addition of eight beds is not expected to have an impact on parking due to close proximity to mass transit.

- d. **Bicycle Parking Requirement.** Bicycle parking is one space per 5,000 square feet of floor area per Section 20.90.060 – Table 20-190, Parking Spaces Required by Land Use – Bicycle Parking Required. The incremental fraction of a bicycle parking space can be easily accommodated on site with an additional onsite bicycle parking space. Staff has added a condition (Condition 9) requiring the addition of another on-site bicycle parking space to the existing stock of on-site bicycle parking facilities.
- 5. **Environmental Review.** The proposed project is Categorically Exempt pursuant to Class 1, Section 15301(e) of the California Environmental Quality Act Guidelines for Existing Facilities. The existing office that is proposed to be converted to a dormitory is approximately 414 square feet and is well under the square footage thresholds allowed in this Section. The conversion of an existing office to a dormitory with eight additional beds in an existing 72 bed residential emergency shelter qualifies for this Categorical Exemption.
  - 6. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Special Use Permit for the proposed commercial condominiums, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

*As described above, the project is consistent with and will further the policies of the General Plan. The proposed expansion of the residential emergency shelter to accommodate eight additional beds is consistent with and implements Housing Element goals and policies of a target population of special needs homeless individuals. The project is not located in any Specific Plan or area development policies.*

- b. The Special Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

*As described in the Zoning Ordinance compliance section above, the project is a legal non-conforming use which does not conform to the development standards of the HI Heavy Industrial or LI Light Industrial zoning districts. However, no change is proposed to the exterior of the buildings, and thus this Special Use Permit would not further decrease the compatibility of the site or the use with the development standards of these zoning districts. The use is allowed with a previously approved Conditional Use Permit and expansion of legal non-conforming uses is allowed with a Special Use Permit.*

- c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

*The project is consistent with the Public Noticing and Public Outreach City Council Policies. The project has had the on-site signs posted on the project since the formal submittal of the application. The project has been noticed for public hearing to a radius of 500 feet, consistent with the Public Outreach City Council Policy.*

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

*The proposed expansion of eight additional beds could be accommodated within the residential emergency shelter facility. All dining, sleeping, and counseling activities would occur within the facility. Therefore, the proposed project would not impair or adversely affect the peace, health, safety, morals, welfare, utility or value of property, or the public health, safety, or general welfare.*

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

*The existing residential emergency shelter is contained within a two-story building and an internal courtyard fronting West Julian Street. All of the emergency shelter functions are completely housed within the building grounds and include dining facilities, sleeping quarters, offices and meeting rooms. Night lighting at entries is limited to minimal illumination levels necessary for safety and security, and the project site is adequate in shape and size for all requisite landscaping, loading and development features.*

- f. The proposed site is adequately served:
- i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - ii. By other public or private service facilities as are required.

*The existing residential emergency shelter is optimally located within close walking distance to downtown employment centers, bus routes and transit facilities. The facility is also accessed by public streets of sufficient width.*

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*The conversion of an existing office space to an eight bed dormitory is not expected to result in any potential for an environmental impact and is Categorically Exempt pursuant to a Class 1, Section 15301(e) for Existing Facilities. The existing office that is proposed to be converted to a dormitory is approximately 414 square feet and is well under the square footage thresholds allowed in this Section. The additional eight beds can be easily accommodated within the existing facility operations.*

In accordance with the findings set forth above, a Special Use Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City



of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Use Authorization.** This Special Use Permit allows the expansion of a legal non-conforming use to increase the number of beds at an emergency residential shelter from 72 beds to 80 beds. Pursuant to Section 20.90.220(G)(2) of the City of San Jose Municipal Code, the emergency residential shelter is subject to a 100% reduction in required parking and thus no on-site parking is required.
6. **Conformance to Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "Julian Street Inn" dated received February 22, 2017 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
7. **Management Operations Plan.** The establishment shall operate in a manner consistent with the Julian Street Inn: Building Operations Plan (dated received on March 29, 2017), incorporated herein by this reference as if fully set forth herein.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
9. **Bicycle Parking Compliance.** The project shall demonstrate compliance with the bicycle parking requirements prior to issuance of building permits, and shall add one (1) additional bicycle parking space on the project site prior to operating with additional beds.
10. **Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2247>

- a. **Flood: Zone D.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
  - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable
11. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, SP17-017, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - d. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
12. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
13. **Special Access Requirements for Podium Buildings.** The developer shall provide Fire Department personnel route of travel for the interior courts. The Fire Department requires all exterior stairways to have direct egress to all interior court(s) without obstructions for equipment (i.e., ladders, etc.) used by this Department for rescue as well as suppression. All exterior stairways to interior podium shall be 6 feet wide for the fire personnel for reasons as noted.
14. **General Fire Prevention Requirements.** The Permittee shall provide the following improvements:
- a. *Fire Sprinkler System.* Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.
  - b. *Requirements for Trash Areas.* Outdoor covered areas and trash enclosures may require the sprinkler system to be extended to protect them.
  - c. *Fire Alarm System.* Building(s) shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.

- d. *Standpipes Available During Construction.* All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
  - e. *Complex Map.* A complex map is recommended which incorporates an elevated view of the building and individual unit addresses. It should be illuminated during the hours of darkness and positioned in the lobby area so as to be readily readable from main pedestrian access entrance. A complex map should also be placed contiguous to the vehicular entrance to the development where it will not cause stacking problems when being viewed.
  - f. *Public Safety Radio Coverage.* Public Safety Radio Coverage is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.
  - g. *Elevators.* Elevators shall be in accordance with the requirements stipulated in the California Building Code Chapter 30. All buildings with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator.
  - h. *Management Association Responsibilities for Life & Safety Systems.* Should the residential units be privately owned, the developer/owner shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.
  - i. *Construction Fire Protection Plan.* A “Construction Fire Protection Plan” for approval by San Jose Building and Fire Departments is required prior to starting construction for wood framing projects consisting of 15 or more dwelling units or construction exceeding a total of 50,000 square feet.
15. **Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fire flow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fire flow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.
16. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
17. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
18. **Fire Lanes.** Fire lanes, suitably designated “FIRE LANE-NO PARKING,” shall be provided as required by the Fire Department.
19. **Fire Department Permit Required.** A permit must be obtained from the Building and Fire Departments. Submit three (3) sets of construction plans to the Building Department, one (1) of those sets of plans will be routed to the San José Fire Department for review and comments.
20. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed



by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.

21. **Fire Department Connections.** Fire sprinkler and standpipe fire department connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during plan check by San Jose Fire Department and shall be depicted on the riser key plan(s).
22. **Access Roads.** Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San José Fire Department's Fire Protection Systems Section at (408) 277-8756.
23. **Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.
24. **Security Gate Access.** All access control vehicle security gate(s) shall be a minimum of 20 feet clear width and may have a clear with of 14 feet for each direction of travel when split by median. Gates shall be recessed beyond the turning radius required by the San Jose Fire Department and without obstruction of any median island dividers. All gate installing shall be reviewed and approved prior to construction. Electric gate operators must have UL 325 listing and it gate must comply with ASTM F2200.
25. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
26. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
27. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
28. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
29. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
30. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
31. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.

32. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
33. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
34. **Revocation, Suspension, Modification.** This Special Use Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20. 100, Title 20 of the San José Municipal Code it finds:
- A violation of any conditions of the Special Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **26<sup>th</sup> day of April, 2017.**

Harry Freitas, Director  
Planning, Building and Code Enforcement

Deputy